

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to adoption by reference of section of NIST Handbook

The Agriculture and Land Stewardship Department hereby amends Chapter 85, “Weights and Measures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 189.2 and 215.24.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 189 and 215.

Purpose and Summary

This rule making is limited in scope to adoption by reference of the National Institute of Standards and Technology (NIST) Handbook 130, (2020), Part IV, Section G, 2.1.2, specifically that section and not the entire manual. The Environmental Protection Agency (EPA) issued an amended administrative rule making that withdrew the “vapor pressure” prohibition on the retail marketing of motor fuel containing 15 percent ethanol from June 1 through September 15 of a calendar year. While the EPA made the regulatory change, the NIST had not yet completed its process to alter the requirements in the NIST Handbook. The lag created a regulatory inconsistency between the EPA’s regulations and the Department’s administrative rules that incorporate by reference the NIST standard that contains the “vapor pressure” seasonal sales prohibition. The Department issued a waiver of the rule from June 1, 2019, to September 15, 2019, to address this discrepancy.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 1, 2020, as **ARC 4844C**. A public hearing was held on January 22, 2020, at 1 p.m. in the Second Floor Conference Room, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 7, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 1, 2020.

The following rule-making action is adopted:

Amend rule 21—85.39(189,215) as follows:

21—85.39(189,215) Weights and measures.

85.39(1) The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of July 1, 2013, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

85.39(2) The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation, Checking the Net Contents of Packaged Goods, and Uniform Engine Fuels and Automotive Lubricants Regulation, and all supplements, as published by the National Institute of Standards and Technology amended or revised as of July 1, 2013, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

a. The National Institute of Standards and Technology (NIST) Handbook 130, Part IV, Section G, Section 2. Standard Specifications, 2.1.2. Gasoline-Ethanol Blends, as of November 1, 2020, is adopted in its entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

b. Reserved.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/26/20.